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SUBJECT: MALAWI UPDATE FOR PRESIDENT'S AGOA REPORT

REF: STATE 24616

1. Following is Embassy's update for the President's AGOA Report, as requested in reftel. Embassy has also submitted this update via e-mail to AF/EPS Mary Fleming.

2. Status: AGOA eligible, including for textile and apparel benefits.

3. AGOA Trade and Investment: Malawi's exports under AGOA were valued at \$27.6 million in 2004, representing 46 percent of total exports to the United States. Most new AGOA-related economic activity in Malawi has been in the textile and apparel sector.

4. Market Economy/Economic Reform/Trade Barrier Elimination: The government has made a basic commitment to the principles of market economics. It encourages both domestic and foreign investment in most sectors of the economy, without significant restrictions. The government continued to make progress in 2004 with its privatization program, under which it has sold off 64 of 110 companies targeted since 1996. Early in 2004, the International Monetary Fund (IMF) halted its Poverty Reduction and Growth Facility because of government overspending; after the installation of a new administration in May, fiscal discipline was quickly restored with help from an IMF Staff-Monitored Program.

5. Rule of Law/Political Pluralism/ Anti-Corruption: Malawi held a peaceful presidential and parliamentary election in May 2004. International observers considered the election to have been free but have criticized its fairness. Malawi has an independent but overburdened judiciary. The government's Anti-Corruption Bureau (ACB) has actively pursued public and private corruption since the new administration took office in May 2004, but its record for winning convictions has yet to be established.

6. Poverty Reduction: Since 1981, Malawi has undertaken economic structural adjustment programs supported by the World Bank, IMF, and other donors. Malawi met HIPC debt relief criteria in December 2000 and has since developed its PRSP, which was launched in 2002. While Malawi continues to work with these institutions and to use the PRSP as the central planning document for government budgeting, a historic lack of fiscal discipline weakened growth and macroeconomic instability, limiting poverty reduction.

7. Labor/Child Labor/Human Rights: Malawi's labor laws cover the majority of the ILO's core labor standards. Workers have the right to form and join trade unions. Unions must register with the Ministry of Labor, but this is largely a formality. A lack of capacity in the government and the unions reduces the effectiveness of worker rights protections. On child labor, Malawi's Constitution and employment laws comply with the ILO Convention 138 and Convention 182, but resource constraints - both human and financial - hamper enforcement. A 2000 Malawi Demographic and Health Survey estimated that 27 percent of Malawian children aged 5-14 were working - two-thirds without pay. The incidence of child labor on tea estates and tobacco farms is particularly high. The public-private Child Labor Task Force expanded its membership among labor, private sector, and NGO organizations. In 2004, the task force developed and implemented a national Code of Conduct on Child Labor and placed child labor officers in each district of the country. Malawian children are trafficked to other Southern African countries and to Europe for purposes of forced labor and commercial sexual exploitation. There were some reports of the police beating and otherwise abusing detainees and using excessive force in handling criminal suspects. Lengthy pretrial detention was a serious problem.

8. U.S. Mission Outreach: In 2004, the U.S. Mission and the Southern Africa Global Competitiveness Hub trained the Malawi Handicrafts Association on identifying U.S. market opportunities and meeting U.S. buyers' product requirements.